

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

1. ANTHONY GAN, individually and d/b/a)	
2. EMPIRE LEASING, LLC,)	
)	
Plaintiff,)	
)	
vs.)	No. 12-CV-89-GKF-TLW
)	
1. SAFECO INSURANCE;)	
2. SAFECO INSURANCE COMPANY OF)	
AMERICA;)	
3. AMERICAN ECONOMY INSURANCE)	
COMPANY;)	
4. AMERICA FIRST INSURANCE COMPANY;)	
5. LIBERTY MUTUAL GROUP;)	
6. LIBERTY MUTUAL GROUP AGENCY)	
MARKETS;)	
7. LIBERTY MUTUAL FIRE INSURANCE)	
COMPANY; and)	
8. LIBERTY MUTUAL INSURANCE)	
COMPANY,)	
)	
Defendants.)	

NOTICE OF REMOVAL

In accordance with the provisions set forth in 28 U.S.C. § 1441, *et seq.*, notice of removal is given as follows: Safeco Insurance Company of America, American Economy Insurance Company, America First Insurance Company, Liberty Mutual Group Inc., Liberty Mutual Fire Insurance Company, and Liberty Mutual Insurance Company¹, remove this action from the District Court of Oklahoma County, Case No. CJ-2011-5493 (“State Court Action”), to this Court pursuant to 28 U.S.C. §§ 1332 and 1441, *et seq* and LCvR 81.2. Pursuant to 28 U.S.C. §1446 and LCvR81.2, a

¹ Plaintiff has also named “Safeco Insurance” and “Liberty Mutual Group Agency Markets”. However, there are no legal entities known as “Safeco Insurance” or “Liberty Mutual Group Agency Markets”. Further, the correct legal

copy of the District Court Docket Sheet is attached hereto as Exhibit “1” and copies of all documents filed or served in the State Court Action are attached hereto as Exhibit “2”.

1. In his Amended Petition, Plaintiff alleges breach of contract and bad faith by Defendants for allegedly failing to pay benefits pursuant to an insuring agreement between Plaintiff and Defendant American Economy Insurance Company. The policy was issued by Defendant American Economy Insurance Company and covers property located at 204 SE Washington Boulevard, Bartlesville, Washington County, Oklahoma.

2. This cause was filed in the District Court of Oklahoma, State of Oklahoma on August 5, 2011. However, Defendants were not served with Plaintiff’s original Petition. Defendants’ first notice of the lawsuit was with the service of the First Amended Petition on January 26, 2012. Defendants first ascertained this case was removable when it received the First Amended Petition.

3. In the First Amended Petition, Plaintiff claims actual damages in excess of \$75,000.00 and punitive damages in excess of \$75,000.00.

4. Pursuant to 28 U.S.C. §1446(b), Defendant has filed this Notice of Removal within 30 days of January 26, 2012, the date Defendants first ascertained the case was removable.

5. Removal of this action is proper under 28 U.S.C. § 1441, *et seq.*, because this Court has original diversity jurisdiction over this matter, given that:

a. Amount in Controversy:

i. The amount in controversy exceeds \$75,000.00, exclusive of interest or costs. Plaintiff has alleged Defendants breached the insurance contract and acted in bad faith and damaged Plaintiff in excess of \$75,000.00. Plaintiff claims actual damages in excess of \$75,000.00 and punitive damages in excess of \$75,000.00.

name for “Liberty Mutual Group” is “Liberty Mutual Group Inc.”

b. Diversity of Citizenship:

i. Upon knowledge, information and belief, Plaintiff is a resident of Bartlesville, Oklahoma, Washington County, Oklahoma

ii. Defendant Safeco Insurance Company of America is a New Hampshire corporation with its principal place of business in Boston, Massachusetts.

iii. Defendant American Economy Insurance Company is an Indiana corporation with its principal place of business in Boston, Massachusetts.

iv. Defendant America First Insurance Company is a New Hampshire corporation with its principal place of business in Boston, Massachusetts.

v. Defendant Liberty Mutual Group is incorrectly named and should be named as Liberty Mutual Group Inc. which is a Massachusetts corporation with its principal place of business in Boston, Massachusetts.

vi. Defendant Liberty Mutual Fire Insurance Company is a Wisconsin corporation with its principal place of business in Boston, Massachusetts.

vii. Defendant Liberty Mutual Insurance Company is a Massachusetts corporation with its principal place of business in Boston, Massachusetts.

viii. Plaintiffs have named Safeco Insurance and Liberty Mutual Group Agency Markets as defendants; however, these are not legal entities.

Accordingly, there is complete diversity of citizenship in this action, and this case is removable on that basis.

c. Venue:

Plaintiff filed this action in Oklahoma County. However, Oklahoma County has no connection to this controversy. Plaintiff is a citizen of Bartlesville, Oklahoma. Further, the

property that is the subject of this dispute is located in Bartlesville, Washington County, Oklahoma. Therefore, this action should be removed to the Northern District of Oklahoma.

6. Written notice of the filing of this Notice of Removal is being promptly given to Plaintiff and a Notice of Filing of Notice of Removal is promptly being filed with the clerk of the District Court of Oklahoma County, State of Oklahoma as required by 28 U.S.C. § 1446(d).

For the reasons stated above, Defendants Safeco Insurance Company of America, American Economy Insurance Company, America First Insurance Company, Liberty Mutual Group Inc., Liberty Mutual Fire Insurance Company, and Liberty Mutual Insurance Company, remove this action from the District Court of Oklahoma, State of Oklahoma, to this Honorable Court.

Respectfully Submitted,

LATHAM WAGNER STEELE & LEHMAN, P.C.

s/ Bob L. Latham, Jr.

Bob L. Latham, Jr., OBA #15799

Carey C. Calvert, OBA #15080

10441 S. Regal Boulevard, Suite 200

Tulsa, OK 74133

(918) 970-2000 Telephone

(918) 970-2002 Facsimile

blatham@lswsl.com

ccalvert@lswsl.com

*Attorneys for Defendants Safeco Insurance
Company of America, American Economy
Insurance Company, America First Insurance
Company, Liberty Mutual Group Inc.,
Liberty Mutual Fire Insurance Company and
Liberty Mutual Insurance Company*

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 22nd day of February, 2012, a true and correct copy of the above instrument was mailed to all known counsel of record, listed below.

Larry Tawwater
Darren M. Tawwater
David N. May
THE TAWWATER LAW FIRM, PLLC
14001 Quail Springs Parkway
Oklahoma City, OK 73134

and

Michael P. Martin
Martin, Jean & Jackson
P.O. Box 1089
Stillwater, OK 74076

Attorneys for Plaintiff

s/ Bob L. Latham, Jr.